

MINUTES

MONTANA SENATE 59th LEGISLATURE - REGULAR SESSION SUBCOMMITTEE ON SB 146 -- JUDICIARY

Call to Order: By **SEN. DAN MCGEE**, on February 12, 2005 at 1:18 P.M., in Room 303 Capitol.

ROLL CALL

Members Present:

Sen. Dan McGee, Chairman (R)
Sen. Mike Wheat (D)
Sen. Jesse Laslovich (D)
Sen. Lynda Moss (D)

Members Excused: None.

Members Absent: None.

Staff Present: Valencia Lane, Legislative Branch
Mari Prewett, Committee Secretary

Please Note. These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Continued Subcommittee discussions on SB 146

SEN. DANIEL MCGEE, SD 29, said, following further discussion with the Montana Association of Counties (MACo), it was decided that the enumeration of county charges were slightly different than the way the Subcommittee amended SB 146 at its February 8, 2005, meeting.

Valencia Lane, Staff Attorney, Legislative Services Division (LSD), provided a copy of amendment #SB014609.avl.

EXHIBIT(jus35a01)

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Ms. Lane said that the amendment contains all of the amendments that were adopted by the Subcommittee at its February 8, 2005, meeting. In addition, it contains revisions that pertain only to **15-1-121, MCA, -- Entitlement share payment -- appropriation**. The numbers for the counties only were changed. It removed the six big counties from the 56 counties and inserted language stating that the six counties would be audited and the deduction from their entitlement share will be determined after the audit is conducted. **NEW SECTION 74 -- Implementation -- determination of actual costs -- legislative audit --report** has also been revised to reflect how the entitlement-share figures were going to be arrived at. She suggested that the Subcommittee make a motion to adopt amendment #SB014609.avl as the final amendment to be recommended to the full Senate Judiciary Committee.

Discussion: Bill Kennedy, Yellowstone County Commissioner, asked how the audit was going to be paid for. **Judy Paynter, Office of Budget and Program Planning (OBPP)** assumed that the Committee would need to include appropriation authority in the Legislative Audit Division (LAD) budget for the expenses incurred by the audits. **Sheri Heffelfinger, Research Analyst, LSD**, added that the intent of SB 146 is that local governments pay for the audits. **Mr. Kennedy** asked if the audit would be minimal dollars. **Brent Doig, OBPP**, said that the plan is that the LAD would work with county auditors, but he was unsure about the cost. **SEN. MCGEE** added that the intent of SB 146 is to not saddle the six counties with a huge expense for the audit.

{Tape: 1; Side: A; Approx. Time Counter: 8.7 - 17.6}

Linda Stahl, Missoula County, trusted that the Committee would work further on the figures when SB 146 goes to Senate Finance and Claims. She said that the counties believe that the language related to "all expenses associated with District Court and Justice Court public defenders" included unreimbursed costs.

After speaking with **Ms. Heffelfinger**, she explained that it was never the intention of the Subcommittee to include unreimbursed costs in SB 146. If that is the case, further discussion is needed because the counties believe that all of the costs that are identified as unreimbursed will be included in SB 146. **SEN. MCGEE** felt that the idea is that the public defense costs are going to be paid for as they legitimately apply to public defender issues. Other state-assumption District Court costs, which the Court Administrator may not have said was an allowable cost but which has nothing to do with public defender issues, is not a function of SB 146.

Ms. Stahl asked if the Subcommittee agreed that the cost associated with a fitness to proceed evaluation are public defender costs. **Ms. Heffelfinger** said that the interim subcommittee discussed at length the psychiatric-evaluation, fitness to proceed tests. The interim subcommittee made a policy decision to not include those costs in the public defender bill. The costs would continue to be reimbursed, as is, under the Court Administrator's Office. Current policy is that all other expenses incurred in connection with the examination, including costs of detention, custody, treatment, and transportation must be paid by the county determined by the Court to be the residence of the defendant at the time that the examination is ordered. **Ms. Stahl** said that is what is at the heart of the issue of unreimbursed costs. Not only will the counties be paying the unreimbursed costs to the state, as they do currently, their entitlement share will also be reduced by that amount as well. **Ms. Heffelfinger** said that nowhere in SB 146 is there any contemplation of capturing costs associated with psychiatric evaluations.

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Gordon Morris, Director, Montana Association of Counties (MACo), said that **Ms. Stahl's** point is whether the unreimbursed costs are going to be included in the final number that is determined for each of the six counties or will they be deducted from their entitlements. **Ms. Heffelfinger** said that these costs will not apply. There will be no reduction in the entitlement share to cover unreimbursed costs.

Motion/Vote: SEN. WHEAT moved to reconsider the Subcommittee's actions from the February 8, 2005, meeting. Motion carried unanimously by voice vote.

Motion/Vote: SEN. WHEAT moved the approval of amendment #SB014609.av1. Motion carried unanimously by voice vote.

Motion/Vote: SEN. WHEAT moved that the Subcommittee recommend to the full Judiciary Committee that it adopt SB 146 DO PASS AS AMENDED. Motion passed unanimously by voice vote.

ADJOURNMENT

Adjournment: 2:00 P.M.

SEN. DAN MCGEE, Chairman

MARI PREWETT, Secretary

LOIS O'CONNOR, Transcriber

MW/mp